

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TIMOTHY CRAYTON,  
Plaintiff,

v.

G. RAMEY, et al.,  
Defendants.

Case No. 18-01450 BLF (PR)

**ORDER DIRECTING PLAINTIFF  
TO PROVIDE COURT MORE  
INFORMATION FOR DEFENDANT  
AFNAN**

Plaintiff, a California inmate, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 against prison staff at Salinas Valley State Prison (“SVSP”). On August 6, 2018, the Court granted Plaintiff’s motion for leave to proceed *in forma pauperis* (“IFP”), partially dismissed the complaint, and issued an order of service on Plaintiff’s cognizable claims under the First Amendment and Eighth Amendment. (Docket No. 11.) On August 13, 2018, the Clerk mailed Notices of Lawsuit and Request for Waiver of Service of Summons and Waivers of Service of Summons to Defendants Sgt. G. Ramey, Correctional Officer Holmes, Capt. P. Sullivan, and Nurse Afnan at SVSP. (Docket Nos. 13, 14, 15, and 16). On August 17, 2018, the documents mailed to Defendant Nurse Afnan were returned unexecuted. (Docket No. 17.) To date, Defendant Afnan remains unserved.<sup>1</sup>

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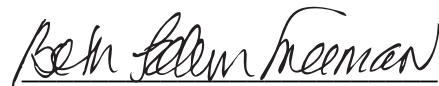
<sup>1</sup> Defendants Sgt. G. Ramey, Correctional Officer Holmes, and Capt. P. Sullivan each returned an executed Waiver of Service. (Docket Nos. 18, 19, and 20).

1 Although a plaintiff who is incarcerated and proceeding *in forma pauperis* may rely  
2 on service by the Marshal, such plaintiff “may not remain silent and do nothing to  
3 effectuate such service”; rather, “[a]t a minimum, a plaintiff should request service upon  
4 the appropriate defendant and attempt to remedy any apparent defects of which [he] has  
5 knowledge.” *Rochon v. Dawson*, 828 F.2d 1107, 1110 (5th Cir. 1987). Here, Plaintiff’s  
6 complaint has been pending for over 90 days, and thus, absent a showing of “good cause,”  
7 claims against Defendant Afnan are subject to dismissal without prejudice. *See* Fed. R.  
8 Civ. P. 4(m). Plaintiff must remedy the situation by providing more information regarding  
9 Defendant Afnan’s current whereabouts or face dismissal of his claims against this  
10 Defendant without prejudice. *See Walker v. Sumner*, 14 F.3d 1415, 1421-22 (9th Cir.  
11 1994) (holding prisoner failed to show cause why prison official should not be dismissed  
12 under Rule 4(m) where prisoner failed to show he had provided Marshal with sufficient  
13 information to effectuate service).

14 For the foregoing reasons, the Court orders Plaintiff to file a notice providing the  
15 Court with more information regarding the current whereabouts for **Defendant Afnan**  
16 such that the Marshal is able to effect service. If Plaintiff fails to provide the Court with  
17 the information requested **within twenty-eight (28) days** of the date this order is filed,  
18 Plaintiff’s claim against Defendant Afnan shall be dismissed without prejudice pursuant to  
19 Rule 4(m) of the Federal Rules of Civil Procedure.

20 **IT IS SO ORDERED.**

21 Dated: October 19, 2018



BETH LABSON FREEMAN  
United States District Judge